

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA

Plaintiff,

V.

**DTE ENERGY COMPANY, and
DETROIT EDISON COMPANY**

Defendants.

Civil Action No. 2:10-cv-13101-BAF-RSW

Judge Bernard A. Friedman

Magistrate Judge R. Steven Whalen

**PLAINTIFF'S UNOPPOSED MOTION FOR LEAVE
TO FILE OPPOSITION BRIEF AND CERTAIN SUPPORTING
EXHIBITS UNDER SEAL**

Pursuant to Local Rule 5.3(b) and Paragraph 11 of the Court's Stipulated Protective Order Regarding Confidential Information and Documents (Dkt. 39), the United States respectfully moves for leave to file its opposition brief, and certain supporting exhibits, to Defendants' Motion for Summary Judgment Based on the 2002 NSR Reform Rules (Dkt. 107) under seal if necessary.

In its opposition brief and certain supporting exhibits, the United States cites to information, including deposition testimony, that the Defendants consider confidential under the terms of the Court's Stipulated Protective Order Regarding Confidential Information and Documents (Dkt. 39). Counsel for the parties are attempting to resolve this issue as to whether the information to be cited by the United States must be filed under seal. However, in the event that the parties are unable to come to an agreement on this issue prior to the required filing date of its opposition, the United States is filing this motion for leave to provide the Court time to consider its request. The Defendants have been consulted and do not oppose this motion.

For the foregoing reasons, the undersigned respectfully requests that this Court grant the United States leave to file its opposition to Defendants' Motion for Summary Judgment Based on the 2002 NSR Reform Rules (Dkt. 107), and certain supporting exhibits, to the extent that they

contain information claimed as confidential by the Defendants pursuant to the Court's Stipulated Protective Order Regarding Confidential Information and Documents (Dkt. 39), under seal if necessary.

Respectfully Submitted,

IGNACIA S. MORENO
Assistant Attorney General
Environment & Natural Resources Division

July 7, 2011

/s/ Thomas A. Benson
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CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2011, the foregoing Motion for Leave was filed electronically using the Court's ECF system and automatically served through the Court's ECF system on counsel of record.